

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

KINERA LOVE,)	
Plaintiff,)	
)	CASE NO.:
v.)	03-06cv1147-MHT-SRW
)	
DOLLAR GENERAL CORPORATION,)	
d/b/a DOLGENCORP, INC.,)	
Defendant.)	

PLAINTIFF'S MOTION TO COMPEL

The Plaintiff, by and through her attorney of record, respectfully submits this Motion to Compel the Defendant to respond to the Plaintiff's discovery requests. As grounds, the Plaintiff offers the following for the Court's consideration:

1. That the Plaintiff propounded her discovery requests upon the Defendant on 14 January 2007, by sending a facsimile of the requests on the said date (**see attached Exhibit A - transmission verification report and facsimile cover sheet**) and by United States regular mail;

2. That the counsel for the Parties discussed the discovery responses and the summary judgment response on 15 January 2008, during their face-to-face settlement conference. The defense counsel informed the Plaintiff's counsel that the responses were being sent to her and the Plaintiff's counsel informed him that she would respond to the summary judgment motion but needed time to review discovery responses;

3. That on Wednesday, 22 January 2008, the Plaintiff's counsel received an email that shows the defense counsel sent out a facsimile of some responses on 16 January 2008, as well as on Thursday, 23 January 2008, by court filing (**Doc. #21 - Exhibit 1**). Despite the fact that defense counsel stated that he sent

the responses by regular mail, he contradicts his own statement on the facsimile cover sheet by indicating that no original was to follow in mail (**see Doc. #21-2, pp. 2 of 31 and 3 of 31**). To date, the Plaintiff's counsel has not received any response to the Plaintiff's discovery requests that were allegedly sent by regular mail;

4. The Plaintiff's counsel has not received any of the discoverable documents that were requested of the Defendant, nor has she received a verified copy of the response to the interrogatories as required by **Rule 33** of the **Federal Rules of Civil Procedure**.¹ In effect, the Defendant has not responded to the Plaintiff's requests, as the ones the Defendant proposes have been submitted are incomplete, deficient and inadequate. The Plaintiff finds that the Defendant's Opposition to her Motion for Reconsideration is quite strange, especially since defense counsel indicated he would not oppose the request for a reasonable delay to respond to the summary judgment motion, and since the Defendant has not complied fully with the discovery rules;

5. The Plaintiff still is in need of the discovery to respond to the Defendant's Motion for Summary Judgment, and avers that with the discovery, she can overcome the said Motion, and believes the Defendant knows this, thus its delay in responding and providing the requested documents. The Plaintiff certainly shows this to be an unforeseen or unavoidable circumstance well beyond her control; and,

¹ **Rule 33** states, in part, ... "(2) The answers are to be signed by the person making them, ..." .

6. That this Honorable Court, in Its Scheduling Order (**Doc. #7**), set the discovery deadline in this case for 15 February 2008. There is still time for the Defendant to respond to the Plaintiff's request by submitting complete and sufficient discoverable responses.

WHEREFORE, PREMISES CONSIDERED, the Plaintiff prays that this Honorable Court will grant her Motion to Compel and require the Defendant to provide complete and sufficient discoverable responses to the Plaintiff's discovery requests so that she may respond to the Defendant's Motion for Summary Judgment.

Respectfully submitted,

s/Lateefah Muhammad
Lateefah Muhammad (Ala. Code MUH001)
ATTORNEY FOR PLAINTIFF
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CERTIFICATE OF SERVICE

I hereby certify that on 23 January 2008, I electronically filed the foregoing Motion to Compel to the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: Ryan Aday, Esquire, attorney for Defendant.

s/Lateefah Muhammad
Lateefah Muhammad

EXHIBIT A

TRANSMISSION VERIFICATION REPORT

TIME : 12/14/2007 05:35
NAME : ATTY L MUHAMMAD
FAX : 3347271997
TEL : 3347271997
SER.# : E6X167300

DATE, TIME	12/14 05:32
FAX NO./NAME	12053286000
DURATION	00:02:40
PAGE(S)	15
RESULT	OK
MODE	STANDARD ECM



A facsimile from

**LATEEFAH MUHAMMAD,
ATTORNEY AT LAW, P.C.
3805 West MLK Highway
Tuskegee, Alabama 36083
334-727-1997 telephone/facsimile**

To: Ryan M. Aday, Esquire
OGLETREE DEAKINS P.C.

ATTORNEY FOR DEFENDANT

Phone number: 205-328-1900
Fax number: 205-328-6000

For

**OUR CLIENT FILE #05-0154/KINERA LOVE
PLAINTIFF'S DISCOVERY REQUESTS**

Date: 12/14/2007

**RE: *LOVE v. DOLLAR GENERAL
STORES, d/b/a DOLGENCORP,
INC.*, 3:06cv1147-MHT-SRW**

**Comments: Please see attached
Plaintiff's First Set of Interrogatories
and First Request for Production.
Feel free to call, if necessary.**

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the Addressee and may contain information that
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